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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,045	09/26/2003	Stephen J. Brown	03-0940 / 7553.00038	8048

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EXAMINER	
HU, KANG	

ART UNIT	PAPER NUMBER
3715	

MAIL DATE	DELIVERY MODE
03/31/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/673,045	BROWN ET AL.	
	Examiner	Art Unit	
	KANG HU	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *48,51,55-62,68-78,81-83 and 96-122* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *48,51,55-62,68-78,81-83 and 96-122* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Present office action is in response to amendment filed on 12/21/2010. Claims 1-47, 49, 50, 52-54, 63-67, 79, 80, and 84-95 have been cancelled. Claims 48, 51, 55-62, 68-78, 81-83, 96-122 are currently pending in the application.

Priority

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See Transco Products, Inc. v. Performance Contracting, Inc., 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 08/247,716, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Specifically the specification does not teach of providing network address of the remotely located computer from a removable memory card. Therefore the application has not been accorded the priority date of 5/23/1994.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 48, 51, 55-62, 68-78, 81-83 and 96-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bro (US 5,722,418) in view of Kashkashian (US 4,700,055) and further in view of Schulman et al. (US 5,497,772).

Re claims 48, 51, 62, 75, 81 and 122, Bro teaches a blood glucose monitoring system for monitoring a blood glucose level and for providing health-related information comprising:

a display device including a display screen which displays the blood glucose level as measured (col 14, lines 35-38, blood sugar or blood pressure ... measuring and recording device; col 17, lines 15-25, two way interactive message display),

an audio speaker (col 17, line 35, built in speaker)

a processor configured to provide audio and visual signals to the audio speaker and the display device respectively (col 17, lines 15-25, use of a two-way interactive message display connected directly to the computer via the telephone network and digital telephone tone signal converter);

at least one built-in memory including read-only digital memory or writeable digital memory, having stored therein operation data and operation software routines (col 15, line 58-61, patient program);

software for controlling the blood glucose monitoring system (col 14, lines 35-40, blood sugar measuring and recording device; col 18, lines 58-67, allow observer or instructor using computer to review the patient's blood glucose through the user of computer which is at a remote location and guide the patient from time to time based upon the trend; col 38, lines 1-15, personalized interactive patient care);

comparing the blood glucose level as measured with stored measurements (col 14, lines 50-56, previous history of messages received; col 18, lines 58-67, allow instructor to monitor and guide the patient based upon the trend);

performing one or more further processing functions in response to the comparing (col 14, lines 60-67, program including many motivational and reinforcement messages);

Bro further teaches having the interactive two way message display establishes communication with a remotely located computer via a communication network based on a network address (col 17, lines 10-15, patient response can be made by calling the computer by use of a special computer access telephone number; col 18, lines 14-38, asynchronous transfer mode uses general class of digital packet switching technologies that relay and route traffic by means of an address contained within a very short, fixed-length packet) and verification of patient identity through a personal identification number and/or credit card); However Bro does not provide that the network address is received from a removable memory card attached to the system. Kashkashian teaches of providing a credit card and a credit card reader (Kashkashian, Fig 1) connected to the console and microprocessor, Kashkashian further teaches of providing different data pertaining to the customer encoded onto the card (Kashkashian, col 6, line 63- col 7, line 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bro by Kashkashian to provide network address to be stored on the credit card (removable memory card) to save space and maximizing convenience and to provide easy accessibility, by merely substitute one element for another known in the field, to yield a predictable result.

Bro further teaches of receiving the health-related information via the communication network from the remotely located computer (Bro, col 9, lines 55-61, questions regarding health);
at least one physiological data monitor configured to provide a measurement signal representative of a physiological parameter of a user and reside outside a first housing containing said processor (Fig 1, physiological data monitor and interactive two-way message display being two separate devices; col 14, lines 35-41, physiological data monitor being one of EEG or blood sugar, blood pressure, heart monitor etc.);

Bro teaches of an interface device coupled between the processor and the physiological data monitor (fig 1, client device interactive device connected to a physiological data monitor), however Bro does not teach of having the interface device used to provide electrical isolation and not entirely disposed within any housing containing the processor. Schulman teaches of having detachable connector that does not use a direct electrical contact (a "contact-less" connector) between the circuits of the monitor and the plurality of sensors to provide electrical isolation between the glucose monitor and the sensors (col 11, lines 27-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bro by Schulman to provide contact-less interface devices to provide electrical isolation and not disposed within any housing containing the processor by merely substitute one element for another known in the field, to yield a predictable result. Furthermore, Schulman and Bro are in the same field of endeavor of providing physiological data monitoring.

Bro further teaches of an input device in communication with the processor and configured to receive an input from the user; enable the user to make selections and control one or more user functions of the blood glucose monitoring system (interactive two way message display receives input from the user in response to queries sent by the remote computer; the user makes selection on the blood glucose monitor to allow the monitor to take measurement); and provide a control signal to the processor based upon the input, thereby to cause the health related information to be provided to the user based upon the measurement signal representative of the blood glucose level and the control signal (col 18, lines 44-57 and col 28, lines 1-12, patient program is provided to the user based on the measured physiological information and user response to the queries). Bro implicitly teaches of having blood glucose level and blood glucose indicator by having the blood glucose monitor provide measured result and indication to the doctor at the remote location. Schulman explicitly teaches of having blood glucose level and blood glucose indicators (Schulman, col 11, lines 14-20 and col 16, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Schulman to Bro to provide blood glucose level and blood glucose indicators to allow the doctor to easily identify the physiological condition of the patient.

Re claims 55 and 68, the input device is hand-held (Bro, col 57, line 35, hand-held personal communicator).

Re claims 56 and 69, the input device received the input from the user through at least one push button switch (Bro, col 33, line 53).

Re claims 57, 70, 98, 102, 106, 110 and 114, the health related information provided from the remotely located computer to the user includes moving images displayed on the display screen (interactive video).

Re claims 58 and 71, the health related information provided from the remotely located computer to the user further includes a comparison of measurements of the blood glucose level with previously stored measurement of the blood glucose level (Bro, col 11, lines 20-53, intended use of the system to monitor patient's health; col 14, lines 35-40, blood sugar monitor; col 23, line 48-63, custom tailor reinforcement for compliance to the patient's response profile).

Re claims 59 and 72, the health related information provided from the remotely located to the user includes educational information (Bro, col 58, line 18).

Re claims 60 and 73, blood glucose monitoring system is configured to store particular information on at least one built-in memory for later retrieval (saving on the interactive computer or television system).

Re claims 61, 74 and 77, the display device is a television (Bro, col 20, line 7).

Re claims 76 and 82, the processor comprises a video game console (applicant admitted prior art, office action 9/1/2009) It would have been obvious to one of ordinary skill in the art at the time of the invention to use a game console as the processor to provide more entertainment.

Re claims 78, 83, 97, 101, 105, 109 and 113, CD-ROM drive, and interchangeable compact disk removably coupled to the CD-ROM drive for providing additional functionality to the processor (Bro, col 14, lines 45-55; col 15, line 60).

Re claims 96, 100, 104, 108 and 112, one or more communication ports configured to connect the blood glucose monitoring system to an information superhighway (Bro, col 18, lines 44-67, glucose monitor connected to a network).

Re claims 99, 103, 107, 111, 115 and 116, built-in memory has stored therein alarm data and alarm software routines for triggering an alarm if the blood glucose level as measure falls outside a predetermined range (Bro, col 55, line 30-40, reminder regarding compliance).

Re claims 117 and 118, operational data and the operational software routines are configured to store particular information to support later retrieval or download based on the comparing (Bro, col 32, lines 35-40, record messages for later retrieval).

Re claim 119, operational data and the operation software routines are configured to ask questions of the user based on the comparing (Bro, col 57, lines 55-60).

Re claim 120, give advice as to diet or exercise habits (Bro, col 11, lines 20-50).

Re claim 121, wireless input device (Bro, col 20, lines 20-21, wireless transmission)

Response to Arguments

3. Applicant's arguments filed 12/21/2010 have been fully considered but they are not persuasive.

The applicant asserts that Bro '418 is not prior art because the present application claims priority to US patent 5,678,571, filed on May 23, 1994. The examiner respectfully disagrees with the priority date of the current application. The independent claims to the present invention at least recites "receiving a network address of the remotely located computer from a removable memory card attached to the system." The examiner has not found support of at least these features in Brown (US 5,678,571), the earliest support for at least the feature recited is established in U.S. application 08/953,883, filed on 10/20/1997. Therefore Bro '418 is valid prior art.

The applicant further asserts that the examiner has mapped both the processor and the remotely located computer to be the same computer. The examiner respectfully disagree, to clarify, the client processor is connected to one of the central computers to retrieve desired data from the doctor, psychologists and/or counselor etc. through a network as cited in the office action.

The applicant further asserts that the prior art fails to provide the limitation of comparing the blood glucose level as measured with stored measurements and provide one more for further processing functions in response to the comparing. The examiner again respectfully disagree, as provided in the citation quoted by the applicant, Bro provides an example using the trend of a person's weight, where the weight is compared to a stored measurements and allowing the observer or instructor to provide feedback based on the trend. Bro further states that other devices such as blood glucose monitoring, blood pressure etc. can be used as well.

The applicant further asserts that Bro does not teach of downloading particular information obtained from the user to a separate computer, the examiner respectfully disagree agree and points out that the information retrieved from the patient are forwarded to the doctors, psychologists and etc. who are remotely located.

The remaining arguments have been addressed in the office action and not repeated herein.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kang Hu/
Examiner, Art Unit 3715

/XUAN M. THAI/
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